

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, *et al.*,

Plaintiffs,

V.

UNITED STATES OF AMERICA, *et al.*,

Defendants,

and

KARLA PEREZ, *et al.*,

Defendant-

Intervenors.

Case No. 1:18-CV-68

**DEFENDANT-INTERVENORS' RESPONSE TO PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Defendant-Intervenors Karla Perez, Maria Rocha, Jose Magaña-Salgado, Nanci J. Palacios Godinez, Elly Marisol Estrada, Karina Ruiz De Diaz, Carlos Aguilar Gonzalez, Karla Lopez, Luis A. Rafael, Darwin Velasquez, Jin Park, Oscar Alvarez, Nancy Adossi, Denise Romero, Pratishtha Khanna, Jung Woo Kim, Angel Silva, Moses Kamau Chege, Hyo-Won Jeon, Elizabeth Diaz, Maria Diaz, and Blanca Gonzalez (collectively, “Defendant-Intervenors”), hereby file their response in opposition to Plaintiffs’ Motion for Preliminary Injunction (Dkt. 5).

Defendant-Intervenors oppose Plaintiffs' Motion for Preliminary Injunction because the Court lacks jurisdiction to enter an injunction in this matter. This Court lacks subject matter jurisdiction over Plaintiffs' claims because Plaintiffs cannot show the injury necessary to assert standing. Furthermore, some or all of Plaintiffs' claims are barred insofar as they are brought

pursuant to the Administrative Procedure Act because there was no “final agency action” by DHS under 5 U.S.C. § 704. Some or all of Plaintiffs’ claims are also barred because Plaintiffs failed to exhaust administrative remedies, or the claims are barred by the doctrines of laches or res judicata. Finally, Defendant-Intervenors have urged the Court to dismiss, transfer or stay proceedings in this case under the first-filed rule.

Defendant-Intervenors also oppose Plaintiffs’ Motion for Preliminary Injunction because Plaintiffs have not and cannot carry their burden of persuasion on the four preliminary injunction factors. Plaintiffs have not and cannot show (1) a substantial likelihood that they will prevail on the merits, (2) a substantial threat that they will suffer irreparable injury if the injunction is not granted, (3) their threatened injury outweighs the threatened harm to Defendants and Defendant-Intervenors, and (4) granting the preliminary injunction will not disserve the public interest.

In support of this Response, Defendant-Intervenors rely on and incorporate herein their Memorandum of Law in Support, as well as accompanying exhibits, any material or arguments Defendant-Intervenors incorporate in their Memorandum of Law in Support, and any subsequent additions, amendments, responses, or replies to the Memorandum of Law and/or this Response. Defendant-Intervenors will file their Memorandum of Law in Support and accompanying exhibits on July 7, 2018, and their response to Plaintiffs’ post-discovery briefing on July 13, 2018, unless otherwise ordered by the Court.

Defendant-Intervenors also request an evidentiary hearing on Plaintiffs’ Motion for Preliminary Injunction so that Defendant-Intervenors may present their versions of material facts that the parties dispute. In support of this Response, Defendant-Intervenors incorporate evidence adduced at any evidentiary hearing held prior to the Court’s decision on Plaintiffs’ Motion for Preliminary Injunction.

Defendant-Intervenors reserve the right to amend this Response.

Dated: June 8, 2018

Respectfully submitted,

**MEXICAN AMERICAN LEGAL
DEFENSE AND EDUCATIONAL FUND**

By: /s/ Nina Perales

Nina Perales (Tex. Bar No. 24005046);
(SD of Tex. Bar No. 21127)

Attorney-in-Charge

Celina Moreno (Tex. Bar No. 24074754)
(SD of Tex. Bar No. 2867694)

Jack Salmon (Tex. Bar No. 24068914)
(SD of Texas Bar No. 1130532)

Alejandra Ávila (Tex. Bar No. 24089252)
(SD of Tex. Bar No. 2677912)

110 Broadway, Suite 300

San Antonio, Texas 78205

Phone: (210) 224-5476

Facsimile: (210) 224-5382

Email: nperales@maldef.org

**GARCÍA & GARCÍA,
ATTORNEYS AT LAW P.L.L.C.**

Carlos Moctezuma García

(Tex. Bar No. 24065265)
(SD of Tex. Bar No. 1081768)

P.O. Box 4545

McAllen, TX 78502

Phone: (956) 630-3889

Facsimile: (956) 630-3899

Email: cgarcia@garciagarcialaw.com

Attorneys for Defendant-Intervenors

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on the 8th day of June, 2018, I electronically filed the above and foregoing document using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ Nina Perales

Nina Perales